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Secretary
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

9 AUG 1993

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MM Docket 92-266

IN REPLY REFER TO:

8310-MEA
CN9302968

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AUG 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable Dennis DeConcini
United States Senate
328 Hart Senate Office Building
Washington, DC 20510

Dear Senator DeConcini:

Thank you for your letter on behalf of Verde Valley Cable TV, Inc., Phoenix, Arizona. Your constituent is concerned about effect of the new rate regulations on small cable operators.

On August 10, 1993, the Commission granted a temporary stay of the rate regulations for small systems with 1,000 or fewer subscribers (see enclosure) and initiated a Further Notice of Proposed Rule Making to examine the burdens on small cable systems. Your constituent's comments will be placed in the record of this proceeding.

Sincerely,

Roy J. Stewart

Roy J. Stewart
Chief, Mass Media Bureau

Enclosure

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List ABCDE

DENNIS DeCONCINI
ARIZONA

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CATV-RATES

PLEASE DIRECT YOUR RESPONSE TO:
☐ WASHINGTON OFFICE
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United States Senate

WASHINGTON, DC 20510-0302

2968

July 16, 1993

The attached inquiry from:

Constituent
Verde Valley Cable TV, Inc.
Phoenix, AZ 85064

is respectfully referred to:

FCC

Your comments regarding this matter will be most appreciated.

Sincerely,
Dennis DeConcini

DENNIS DeCONCINI
United States Senator

Please reply to:

The Honorable Dennis DeConcini
United States Senate
Washington, D.C. 20510

attention: Cindy Balmuth

WASHINGTON OFFICE:
328 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-0302
(202) 224-4521

PHOENIX OFFICE:
323 WEST ROOSEVELT, #C-100
PHOENIX, AZ 85003
(602) 379-6756

SOUTHERN ARIZONA OFFICE:
2730 EAST BROADWAY, SUITE 106
TUCSON, AZ 85716-5340
(602) 670-6831

EAST VALLEY OFFICE:
40 NORTH CENTER STREET, #110
MESA, AZ 85201
(602) 379-4998

VERDE
VALLEY
CABLE TV, INC.
(602) 567-9473
Mike Tucker Pres.

93 JUN 30 PM 2:58

June 25, 1993

Dear Sen DeConcini

We are a single market - single owner cable operator in the Cornville - Page Springs area. When we took on the challenge to build this area we had to figure on a long term project to cost justify it. That has not changed even though we have lost over $250,000 to date. The rules, however, have now changed and we simply can not cope with 540 pages of new regulations from the FCC.

Our franchising authority has not received any complaints about our system. We have received less than 5 letters during our 4 years of service questioning anything. The rates that we charge for service is competitive with other larger systems in our area. In summary, why should we have to spend time and money justifying rates that have produced a $250,000 loss.

Small systems such as ourselves should be exempted from the new FCC rules. You may not have intended to put us out of business with the new legislation but that is likely to be the result.

Sincerely
[illegible]
Sec. Treas.
(unpaid shareholder)
(817) 486-6310

P.O. BOX 4200 · CAMP VERDE, AZ 86322

VERDE VALLEY CABLE TV INC.
FACT SHEET

Franchise Area:	Cornville-Page Springs, AZ. Population consists of service workers and retirees.
Franchise Authority:	Yavapaii County
House Count:	900+ homes cabled plus another 50+ uncabled. 422 subscribers.
Plant:	Estimated thirty miles (3+ underground), 50 channel capacity. Construction began 1988. Total cost over $400,000.
Financial:	Average bill around $22.00 per month. Rates are $18.90 for twenty channel expanded basic. $2.00 unlimited extra outlets. Three premium channels at $7, $10 and $11. 10% Senior Citizen discount. No local advertising or shopping channel revenue. Low pay to basic of 37%. Total loss to date over $250,000. Operating loss of about $7,000. First projected profit 1994.
Employees:	None. All services are contracted with Southwest Cable Services (Tucker Enterprises).
Ownership:	8 shareholders.
Complaints: [illegible]	Virtually none except when the local cable clubs translater for KPNX (NBC) goes out. (KPNX has opted to go for retransmission) ~~which~~ is a service not owned or serviced by the translator. KPNX.
Miscellaneous:	Free service to fire station and school. The elementary school is investigating TV to the home using our system.

PROBLEM AREAS FOR VERDE VALLEY CABLE TV
UNDER THE NEW FCC RULES

1. How do we get a price increase for newly added channels?

2. It would appear that our 10% senior citizen discount will have to be cancelled in order to meet our allowable channel price?

3. How do we recapture our $250,000 loss? There doesn't seem to be any allowance for this in calculating allowable rates?

4. The 5~~8~~40 pages of regulations are so complex that we simply cannot run the system on a daily basis and deal with them. We have no staff dedicated to this area. In fact, we have no paid staff period.

5. Because of regulation, there is really no incentive to carry on. We are too small for pay-per-view events.

If we understood all the new rules this list would be longer.

VERDE VALLEY CABLE TV
COMPARATIVE STATEMENT OF INCOME
DECEMBER 31, 1992 & 1991

	YEAR ENDED 12/31/92	YEAR ENDED 12/31/91
INCOME		
RECEIVED FROM SUBSCRIBERS	$ 100,793	$ 65,832
TOTAL	100,793	65,832
EXPENSES		
ASSOCIATION DUES	399	400
EQUIPMENT RENT	-	1,840
FEES	20,000 A	20,000 A
INSURANCE	2,216	1,699
OFFICE EXPENSE	10,864	2,536
PROFESSIONAL FEES	910	670
RENT	4,377	1,055
MAINTENANCE	29,960	3,046
SUBSCRIPTION FEES	20,363	10,752
SUPPLIES	15,884	23,991
TAXES	6,269	676
TELEPHONE	1,487	991
TRAVEL	1,028	500
UTILITIES	6,674	4,101
DEPRECIATION	33,029	43,717
AMORTIZATION	605	605
TRUCK EXPENSE	1,606	3,075
ADMINISTRATIVE LABOR	-	10,000
COMMISSIONS	385	-
TOTAL EXPENSES	156,056	129,704
NET INCOME(LOSS)	$(55,263)	$(63,872)

A - FEE PAID IN STOCK UNDER TERMS OF CONSTRUCTION AND MAINTENANCE CONTRACT WITH TUCKER ENTERPRISES

VERDE VALLEY CABLE TV
BALANCE SHEET
DECEMBER 31, 1992 & 1991

ASSETS	1992	1991
CASH	$ 11,314	490
CONSTRUCTION IN PROGRESS	19,546	-
HEAD END ASSETS	81,856	81,856
ALLOWANCE FOR DEPRECIATION - H-E ASSETS	(56,284)	(46,060)
SYSTEM ASSETS	163,834	163,834
ALLOWANCE FOR DEPRECIATION - SYSTEM ASSETS	(107,381)	(84,809)
OFFICE EQUIPMENT	2,016	2,016
ALLOWANCE FOR DEPRECIATION - OFFICE EQUIP.	(1,667)	(1,435)
ORGANIZATION EXP. (NET OF AMORTIZATION)	121	363
START-UP COSTS (NET OF AMORTIZATION)	181	544
TOTAL ASSETS	$113,536	116,799

LIABILITIES & STOCKHOLDERS' EQUITY		
BANK LOANS PAYABLE	$ 32,000	-
TOTAL LIABILITIES	32,000	-
CAPITAL STOCK	$335,000	315,000
RETAINED EARNINGS (DEFICIT)	(253,464)	(198,201)
TOTAL STOCKHOLDERS' EQUITY	81,536	116,799
TOTAL LIABILITIES & STOCKHOLDERS' EQUITY	$113,536	116,799

VERDE VALLEY CABLE TV
COMPARATIVE STATEMENT OF INCOME
DECEMBER 31, 1991 & 1990

	YEAR ENDED 12/31/91	YEAR ENDED 12/31/90
INCOME		
RECEIVED FROM SUBSCRIBERS	65,832	26,258
INTEREST INCOME	-	234
TOTAL	64,832	26,492
EXPENSES		
ASSOCIATION DUES	400	540
EQUIPMENT RENT	1,840	3,715
FEES	20,000 A	20,000 A
INSURANCE	1,699	1,657
OFFICE EXPENSE	2,536	1,294
PROFESSIONAL FEES	670	1,490
RENT	1,055	600
REPAIRS	3,046	621
SUBSCRIPTION FEES	10,752	4,422
SUPPLIES	23,991	7,666
TAXES	676	3,934
TELEPHONE	991	1,231
TRAVEL	500	675
UTILITIES	4,101	2,675
DEPRECIATION	43,717	56,509
AMORTIZATION	605	605
TRUCK EXPENSE	3,075	2,157
ADMINISTRATIVE LABOR	10,000	-
TOTAL EXPENSES	129,704	109,791
NET INCOME(LOSS)	(63,872)	(83,299)

A - FEE PAID IN STOCK UNDER TERMS OF CONSTRUCTION AND MAINTENANCE CONTRACT WITH TUCKER ENTERPRISES.

ERDE
ALLEY
CABLE TV, INC.
P.O. Box 4200 • Camp Verde, AZ 86322

CHANNEL	STATION	LISTING	PROGRAMMING
2	The Weather Channel	TWC	24-hour weather
3	KTVK - Phoenix	ABC	Network
4	Nickelodeon	NICK	Kids/family
5	KPHO - Phoenix	KPHO	Ind. variety
6	The Discovery Channel	DISC	Educational
7			
8	KAET - Tempe	KAET	PBS educational
9	ESPN	ESPN	Sports
10	KTSP - Phoenix	CBS	Network
11	FOX	FOX	Network variety
12	KPNX - Phoenix	NBC	Network
13	KUTP - Phoenix	KUTP	Ind. variety
14	WGN- Chicago	WGN	Ind. variety
15	WTBS - Atlanta	WTBS	Ind. variety
16	Cable News Network	CNN	24-hour news
17	Turner Network Television	TNT	Variety/movies
18	Country Music Television	CMT	Music
19	KUSK - Prescott	KUSK	Ind. variety
20 7^{00}	The Disney Channel	TDC	Premium variety
21 11^{00}	Home Box Office	HBO	Premium variety
22 10^{00}	The Movie Channel	TMC	Premium variety
23	USA Network	USA	Network variety
24	Arts & Entertainment	A&E	Ind. variety
25	Nashville Network	TNN	Country variety

2% Fran. Fee

BASIC 18^{40}
multi outlet 2^{00}
Converter w/ Remote 3^{00}

Any 2, 1^{00} discount
All 3 - 2^{00}

Basic install 25^{00}
" " u/G 50^{00}
Service call 15^{00}

By DAVID D. KINLEY

An interesting thing happened as the cable industry was being pushed into federal rate regulation: The small systems rebelled. About the time the FCC denied the NCTA request for a stay, there was a spontaneous uprising among small-system operators.

It was erratic and disorganized, with different groups trying to find out what the others were doing and planning — like bands of guerrilla fighters trying to coordinate strategies in the face of much larger (government) forces.

Out of those discussions among the guerrilla fighters, a common theme has been struck. The small systems have relied on others for too long to do their talking and fighting for them. Small systems must start speaking for themselves.

That determination is already having an impact. The first sign was Acting Chairman Quello's speech of May 26 to the Washington Cable Club. He said that the FCC was unlikely to "substantially revise" the rate regulations. But he acknowledged that the commission "has to do more" to help small cable systems. He said, "We recognize the problem, but we don't have an answer."

The next sign was at the NCTA convention in San Francisco. Anyone who attended the panels of congressional and FCC staffers saw a steady stream of small operators speaking up. By the last panel on the last day, it was obvious that a flag for a temporary truce was about to be raised by the government forces. As one key FCC staffer put it, "We have been sensitized to the needs of small systems."

As soon as FCC personnel could return to Washington, the commission granted a stay of the rate-regulation order "on its own motion." In particular, Chairman Quello's separate statement acknowledged that small systems needed time to adjust to new requirements.

But the granting of the stay is only the beginning. It is not enough for the FCC just to use this period for the hiring of more personnel to bring about effective enforcement. Likewise, small systems would be ill-advised to use this extension period simply "ensure a smooth transition to rate regulation," as suggested in the commission's order.

KINLEY

derive the benchmarks. Because of this, serious flaws are becoming readily apparent. They are of two types. First, there are manual entry errors in which the information from the survey forms was entered incorrectly. Second, there are flaws in the FCC's methodology. In seeking to base the benchmarks on so-called competitive situations, the FCC ended up relying on such a small number of systems that the sample size should have been treated as statistically insignificant.

In one of the benchmark tables for small systems, the FCC used the surveys from only two systems! It is unconscionable for a government agency to represent that its benchmark tables are based on the survey results in such a situation.

All of this information and much more about the flaws in the commission's approach will be revealed in the petitions for reconsideration. There will then be proposals to tinker with the benchmark tables, especially the ones for small systems.

But there is a much better approach to the problem of undue burden on small systems. Unless there is new legislation exempting small systems across-the-board (which there should be), the FCC should at least return to the intent of the Cable Act and apply the present statutory requirements to small systems with utmost flexibility. It should exempt them from the uniform benchmarks entirely, while still allowing rate regulation of those systems as Congress originally intended.

First, the local franchising authorities have to try and decipher what a few FCC statisticians think is good for the entire nation.

Second, there should be no appeal to the FCC of the local authority's decision, so long as due process has been followed. The present scheme of allowing appeals from anyone who has participated in the local process will be a bureaucratic disaster. The person who wants to appeal doesn't even have to be a subscriber! Rather than bolstering local rate-making authority, as Congress intended, it only undercuts that authority. Instead, local authorities should be allowed to regulate just as they did prior to the 1984 Act.

Many small operators I have spoken with are quite ready to accept local rate regulation again. Even after the 1984 Act, small operators for the most part stayed in touch with their franchising authorities and kept them informed so they wouldn't be surprised by a change in rates or services. In small towns, it's hard not to stay in touch.

Small systems must use this "breathing period" to insist on rational revision of the commission's 540-page rate order as applied to small systems.

Third, the FCC should regulate the "cable programming tier" on an exception basis. It should use the same standards as outlined in the Cable Act for determining "unreasonable" rates for this tier.

It should not apply a nationwide system of unitary benchmarks for channels in this tier. For instance, it could recite those standards, state that they will be applied on a case-by-case basis, and then give examples of what it views as abusive or unreasonable rates (e.g. a rate increase which exceeds GNP-PI without any added channels or improved services, rebuild, etc.)

Unless the FCC takes a more flexible approach for small systems, it will undermine the intent of Congress to have an inexpensive basic broadcast tier in these systems. The present "unitary channel" approach, combined with the elaborate scheme which encourages endless individual complaints about the cable tier, will force most small operators to collapse tiers. They simply do not have the time and money to fight rate wars on two fronts. In a classic example of "regulatory backfire," the FCC has given small systems a strong disincentive to provide a basic broadcast tier.

Those of us in the Small Cable Business Association are eager to support anyone with sound proposals to provide relief for small systems. We also believe that the entire industry should get behind the efforts of small operators to obtain such relief. During the panel discussions at the NCTA convention, several congressional staffers made clear that in the 1992 Cable Act, Congress was after "the big guys."

So if there is to be meaningful change in the regulations, other than through court action, it will have to come at the behest of "the little guys." If any segment of our industry has a chance of demonstrating that all this regulation is heavy-handed, it is the small systems. That alone should be reason enough for all operators to support the small systems.

Rather than publicly chortling over how small system values will be depressed, allowing the MSOs to complete the consolidation of the industry at bargain basement prices, every segment of our industry should be supporting efforts to preserve small system operators. Right now, the "mice" have the only politically viable case for radical change.

(David Kinley is chairman of the Small Cable Business Association. He is also president of Sun Country Cable and a partner in the cable consulting firm of Kinley Simpson Associates.)